THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21058 OF 2005

DATED:28.9.2005

Between:

Thamshi Primary Agricultural Cooperative Society

and others

…Petitioners

And

Land Acquisition Officer/Revenue Divisional Officer

Adilabad District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21058 OF 2005

ORDER:

The six petitioners are primary agricultural cooperative societies registered under A.P.Cooperative Societies Act, 1964. They allegedly gave loans to farmers for agricultural purpose. The respondent initiated proceedings for acquiring the lands of the farmers, who availed loans from the petitioners by mortgaging their properties. The petitioners claim that under Section 73 of the Transfer of Property Act, 1854 they have preferential right to claim the compensation that may be awarded by the respondent pursuant to the notification issued under Section 4(1) of the land Acquisition Act, 1894 (LA Act) and declaration under Section 6 of the Act. The

petitioners alleged that though on 2.9.2005 petitioners approached the respondent and gave a representation duly submitting the claim statements particulars, the respondent coming under political influence is seeking to release the amounts to the farmers without referring the dispute under Section 30 of the LA Act. Therefore, they seek a direction to the respondent to refer the matter to Civil Court.

It is not denied that proceedings under the LA Act are still at the stage of enquiry. If the award enquiry is pending and petitioners are interested persons, they can as well approach the respondent and seek reference under Section 30 of the LA Act. On mere allegation that the amounts are likely to be released to the farmers, petitioners cannot enforce any right in the Writ Petition, especially when the farmers who allegedly borrowed the amounts from the petitioners are not made parties to this Writ Petition. Similar Writ Petitions being W.P.No.25531 and 25532 of 2002 filed by cooperative societies were disposed of by this Court on 26.8.2004, observing as under.

> Therefore, this Court holds that the writ petitions are filed on a mere apprehension by the PACSs and Adilabad DCCB without first approaching the first respondent. If the PACSs hold valid mortgage as on the date of issue of notification under Section 4(1) of the Act, it shall be open to the respective primary societies to approach the Land Acquisition Officer, Nirmal claiming their rights. If the amounts claimed by the petitioner societies are disputed by the landowners, the matter may be referred to the Civil Court for orders under Section 30 of the Act. In these writ petitions no relief, as prayed, can be granted.

Following the same, this Writ Petition is also disposed of in the above terms.

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(V.V.S.RAO, J)

28.9.2005

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